



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2019

CORAM:

THE HONOURABLE Mr.JUSTICE M.NIRMAL KUMAR

Crl.A(MD)No.179 of 2014

Gananathan

... Appellant

Vs.

1.Satheesh Kumar

2.State rep. by

The Inspector of Police,
Singampunari Police Station,
Sivagangai District,
Crime No.209 of 2008

... Respondents

PRAYER: Petition is filed under Section 372 of Criminal Procedure Code, to set aside the judgment of acquittal passed by the District Fast Track Mahila Court, Sivagangai dated 11.04.2014 in S.C.No.63 of 2009 and convict the Accused.

For Appellant : Mr.K.Sundaravel

For R1 : Mr.P.Sadiq Raja

For R2 : Mr.K.Suyambulinga Bharathi,
Govt. Advocate (Crl. Side)

O R D E R

This Criminal Appeal is filed by the defacto complainant against the acquittal Judgment passed by the District Fast Track Mahila Court, Sivagangai dated 11.04.2014 in S.C.No.63 of 2009, acquitting the accused/1st respondent herein for the offence under Section 306 of IPC.

2.The facts of the case are briefly stated hereunder:-

(i)The Appellant is the defacto complainant and the father of deceased Vimala, who is the husband of the accused/1st respondent herein. They lived joint together with their families. The accused used to consume alcohol. Hence, he mortgaged the jewels of his wife viz., Vimala and spent more money without the knowledge of his parents. Due to this, there were quarrel between the accused and the deceased and since, the deceased was not able to go any function wearing the jewels, she was depressed. Accordingly, on 11.09.2008,



the deceased asked the accused to get back the jewels to attend her relative's marriage. But, the accused did not turn up. Therefore, the deceased, on depression, she committed suicide in her house by hanging.

(ii) On 11.09.2008, P.W.1, the father of the deceased gone to Madurai to purchase certain articles, at about 3.00 p.m., he was informed about his daughter's death. Therefore he returned to Singampunari, where he found her body and went to police station at 7.45 p.m. and gave a complaint Ex.P1 to P.W.17 Sub Inspector of Police on receipt of complaint, a case in crime No.209 of 2008 for the offence under Section 174 Cr.P.C. got registered. Ex.P4 is the First Information Report. P.W.17 forwarded the complaint and FIR to RDO for investigation.

(iii) P.W.18, Revenue Divisional Officer took up the case on 12.09.2008 and went to the scene of occurrence at 09.00 a.m., enquired the witnesses and recorded their statements, forwarded the report Ex.P5 to the Deputy Superintendent of Police. P.W.21. Deputy Superintendent of Police took up the case for investigation, examined the witnesses and recorded their statements. He prepared Ex.P6 observation mahazer, Ex.P7 Rough Sketch, recovered the saree under Ex.P8 athatchi. Thereafter, he sent the body for postmortem.

(iv) P.W.15, postmortem doctor conducted autopsy on the body of the deceased, issued Ex.P3 postmortem certificate. Thereafter, obtained Ex.P2 chemical analysis report. P.W.22 Inspector of Police took up the case for further investigation, arrested the accused, sent him to jail. P.W.23, Inspector of Police took the case for further investigation, examined witnesses, recorded further statements, altered the offence into Section 306 IPC and after completion of his investigation, filed the charge sheet against the accused for the offence under Section 306 IPC.

3. In order to prove the case of the prosecution, on the side of the prosecution as many as 23 witnesses were examined as P.Ws.1 to 23 and 8 documents were marked as Exs.P1 to P8 and M.O.1 was marked. On the side of the appellant, no witness was examined nor any document was marked.

4. When the appellant was questioned under Section 313 Cr.P.C., about the incriminating circumstances appearing against him, he denied the same.

5. The trial Court, on the basis of the oral and documentary evidence, found the accused not guilty for the offence under Section 306 IPC and acquitted him as the prosecution has not proved the case beyond reasonable doubt, against which, the present appeal has been filed by the defacto complainant.



6.Mr.K.Sundaravel, the learned counsel appearing for the appellant would submit that the Court below failed to appreciate the fact that the appellant had proved his case beyond any reasonable doubt by producing all documentary evidence as well as oral evidence. The trial Court ought to have appreciated the evidence of father, mother, brother and sister of the deceased and their evidence are in conformity to the prosecution case. The trial Court ought to have convicted the accused under Section 306 IPC since there are clinching and blemishes evidence for abetment by the accused.

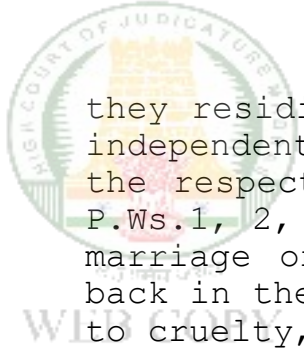
7.The counsel appearing for the 1st respondent/accused would submit that that the deceased is the daughter of P.W.1/defacto complainant. The accused married the deceased. After the marriage, according to the prosecution case, the accused used to consume alcohol and mortgaged the jewels belongs to the deceased. Though the deceased asked to get return of the jewels to attend a relative's marriage, the accused did not turn up. Hence, she suffered from mental agony and hence, she committed suicide.

8.He further submits that except the parents of the deceased, the other witnesses have not supported the case of the prosecution. There is no evidence in any manner to show that the appellant 1st respondent/accused abetted suicide of the deceased. Since the ingredients viz., the intention of the accused, to aid or instigate or abet the deceased to commit suicide has not been fulfilled, the trial Court rightly acquitted the accused. The witnesses other than family members of deceased non whispered anything against the accused. The 1st respondent had been falsely implicated in this case and there is no iota of evidence to implicate the appellant in this case and accordingly, the trial Court rightly acquitted the accused and hence, there is no need to interfere with the judgment of the trial Court.

9.Heard the learned Government Advocate (criminal side) appearing for the State also.

10. This Court has carefully considered the submissions made on either side and perused the entire oral and documentary evidence.

11.In this case, P.W.1 is the father, P.W.2 is the mother, P.W.5 is the brother of the deceased. P.Ws.6, 10 and 11 are the elder sisters of the deceased. All these family members have spoken to about the deceased getting married with the appellant and thereafter, the demand of dowry and cruelty meted to the deceased. They also admit that the deceased and the appellant had two children, one born in the year 2003 and another born in the year 2007. Further, it is seen that the appellant and the deceased were living in a separate portion along with the family members. Though



they residing under common roof in a separate portion and they were independent in all aspects. The household chores being carried by the respective family members. The version of the witnesses viz., P.Ws.1, 2, 5, 6, 10 and 11 is that the deceased could not attend the marriage on 03.09.2008 and 11.09.2008, since she was made to stay back in the house and to work in the house and thereby subjected her to cruelty, which later led her to commit suicide.

12.On the other hand, it is admitted that these witnesses do not stay together or near the house of respondent and deceased and prior to this case, there have been no complaints or any panchayat with regard to deceased being subjected to cruelty.

13.P.W.3 is the co-sister of the deceased. P.W.7 is a family member. P.W.4 is an employee with the appellant, who had last spoken to the deceased, they never stated that the deceased being subjected to cruelty in any manner and they have stated about the deceased and the appellant leading a happy married life. P.W.4, who is the last seen person, to whom the deceased had handed over the boy and stated her that she is going to sleep and take rest and not to disturb her, to whom also, the deceased had not whispered anything against her husband. Thus, none of the witnesses other than the family members of the deceased who were residing far off have spoken to about any dowry demand or any other demand or subjecting the deceased to cruelty. There is no material to show there was any quarrel proximate prior to the occurrence.

14.The Revenue Divisional Officer, who conducted inquest had also opined that there is no demand of dowry. Thus, from the evidence of P.Ws.3, 4, 7 and 9, it is clear that the deceased was not subjected to any cruelty and the appellant is not the reason for the suicide of the deceased.

15.Accordingly, the trial Court, upon appreciating these aspects in proper perspective, has found the accused not guilty and acquitted him of all charges. There is no reason to interfere with the well considered order of acquittal passed by the learned Sessions Judge and the same is required to be confirmed.

16.In fine, the criminal appeal is dismissed and the judgment of acquittal passed by the District Fast Track Mahila Court, Sivagangai dated 11.04.2014 in S.C.No.63 of 2009 is confirmed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

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Sub Assistant Registrar(CS)



To

- 1.The District Fast Track Mahila Judge,
Sivagangai.
- 2.The Judicial Magistrate,
Thirupathur, Sivagangai District.
3. The Inspector of Police,
Singampunari Police Station,
Sivagangai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Record Clerk, (2 Copies)
Criminal Record Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.D.SADIQRAJA, Advocate (SR-106238[F] 20/12/2019)
+1 CC to M/s.K.SUNDARAVEL, Advocate (SR-106323[F] 20/12/2019)

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